

MONTANA LEGISLATIVE HISTORY

Chapter 156 19 77

Bill H 26 S _____ Original bill & history ☒ C

H. Committee on Taxation

Hearing Date(s) Jan 06 ☒ C

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Date Out Jan 06 ☒ C

S. Committee on Taxation

Hearing Date(s) Mar 15 ☒ C

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Mar 15 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1 HOUSE BILL NO. 26
 2 INTRODUCED BY MARKS
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CORRECT GRAMMAR AND
 5 INTERNAL REFERENCES, AND DELETE REDUNDANT MATTER IN THE COAL
 6 SEVERANCE TAX, OIL AND GAS SEVERANCE TAX, METAL MINES
 7 LICENSE TAX, AND RESOURCE INDEMNITY TRUST TAX LAWS, IN AID
 8 OF RECODIFICATION; AMENDING SECTIONS 84-1313, 84-1319,
 9 84-1320, 84-2003, 84-2004, 84-2008.1, 84-2010, 84-2202,
 10 84-2206, 84-2209.1, AND 84-7012, R.C.M. 1947; REPEALING
 11 84-2011, R.C.M. 1947."
 12
 13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 14 Section 1. Section 84-1313, R.C.M. 1947, is amended to
 15 read as follows:
 16 "84-1313. Definitions. As used in this chapter the
 17 following definitions apply:
 18 (1) "Contract sales price" means either ~~the~~ the price
 19 of coal extracted and prepared for shipment f.o.b. mine,
 20 excluding that amount charged by the seller to pay taxes
 21 paid on production, or ~~the~~ a price imputed by the department
 22 under ~~section~~ 84-1318.
 23 (2) "Energy conversion process" includes any process
 24 by which coal in the solid state is transformed into slurry,
 25 gas, electric energy, or any other form of energy.

1 (3) "Produced" means severed from the earth.
 2 (4) "Strip mining" or "surface mining" is defined in
 3 ~~section~~ 50-1036.
 4 (5) "Underground mining" means a coal mining method
 5 utilizing shafts and tunnels, ~~and not regulated under~~
 6 ~~section 50-1039 and as further defined in 50-1036(20).~~
 7 (6) "Ton" means ~~two thousand~~ (2,000) pounds.
 8 (7) "Department" means the department of revenue.
 9 (8) "Taxes paid on production" ~~include~~ includes any
 10 tax paid to the federal, state, or local governments upon
 11 the quantity of coal produced as a function of either the
 12 volume or the value of production, and ~~do~~ does not include
 13 any tax upon the value of mining equipment, machinery, or
 14 buildings and lands, any tax upon a person's net income
 15 derived in whole or in part from the sale of coal, or any
 16 license fee."
 17 Section 2. Section 84-1319, R.C.M. 1947, is amended to
 18 read as follows:
 19 "84-1319. Disposal of ~~license or~~ severance taxes.
 20 ~~License or severance~~ Severance taxes collected under the
 21 provisions of this chapter ~~or such sections as may enact a~~
 22 ~~severance tax on coal in 1975~~ are allocated as follows:
 23 (1) ~~To~~ to the county for such purposes as the
 24 governing body of that county may determine from which coal
 25 was mined for each calendar year prior to January 1, 1980,

~~three cents (3¢)~~ 3 cents per a ton or ~~four percent (4%)~~ of the severance tax paid on the coal mined in that county, whichever is higher, and for each calendar year following December 31, 1979, ~~three cents (3¢)~~ 3 cents per a ton or ~~three and one half percent (3 1/2%)~~ of the severance tax paid on the coal mined in that county, whichever is higher.

(2) ~~Two and one half per cent (2 1/2%)~~ of total collections per a year until December 31, 1979, and thereafter ~~four per cent (4%)~~ of total collections per a year to the earmarked revenue fund, to the credit of the alternative energy research development and demonstration account.

(3) ~~Twenty seven and one half per cent (27.5 27 1/2%)~~ of total collections per a year, until July 1, 1979, and thereafter ~~thirty five per cent (35%)~~, to the earmarked revenue fund to the credit of the local impact and education trust fund account.

(4) ~~For for~~ each of the ~~four (4)~~ fiscal years following ~~the effective date of this act July 1, 1975, ten~~ per cent (10%) of total collections per a year to the earmarked revenue fund to the credit of the coal area highway improvement account.

(5) ~~Ten per cent (10%)~~ of total collections per a year, to the earmarked revenue fund, for state equalization aid to public schools of the state.

(6) ~~For for~~ the period ending December 31, 1979, ~~one per cent (1%)~~ of total collections per a year to the earmarked revenue 9fa fund, to the credit of the county land planning account.

(7) ~~Two and one half percent (2 1/2%)~~ of total collections per a year, to the sinking fund, to the credit of the renewable resource development bond account.

(8) ~~Two and one half percent (2 1/2%)~~ of total collections per a year through June 30, 1979, ~~of which portion one half (1/2) shall be allocated~~ to the earmarked revenue fund, for the purpose of acquisition of sites and areas described in ~~section 62-304~~, subject to legislative appropriations, and ~~one half (1/2) shall be allocated~~ to the trust and legacy fund, for the purpose of parks acquisition. ~~After after~~ June 30, 1979, ~~five percent (5%)~~ of total collections per a year ~~shall be allocated~~ to the trust and legacy fund, for the purpose of parks acquisition. Income from the fund established in this subsection may be appropriated for the acquisition of sites and areas described in ~~section 62-304~~.

~~(9) To the earmarked revenue fund, such portions of the severance tax as may be authorized by laws enacted in 1975.~~

~~(10) (9)~~ All all other revenues from ~~licensees~~ severance taxes collected under the provisions of this

1 chapter ~~shall be deposited~~ to the credit of the general fund
2 of the state."

3 Section 3. Section 84-1320, R.C.M. 1947, is amended to
4 read as follows:

5 "84-1320. Reporting gross proceeds from coal. Each
6 person engaged in mining coal must, on or before March 31
7 each year, file with the department of revenue a statement
8 of the gross yield from each coal mine owned or worked by
9 such person in the preceding calendar year, and the value
10 thereof. The statement shall be in the form prescribed by
11 the department ~~of revenue~~, which may be coordinated with the
12 form used under ~~section 84-1316~~ 84-1315, and must be
13 verified by an officer of the firm. The statement shall
14 include:

15 (1) ~~the~~ the name and address of the owner or lessee or
16 operator of the mine;

17 (2) ~~the~~ the location of the mine;

18 (3) ~~the~~ the tons of ~~ore~~ coal extracted, treated, and
19 sold from the mine during the taxable period;

20 (4) ~~The~~ the gross yield or value in dollars and cents
21 derived from the contract sales price."

22 Section 4. Section 84-2003, R.C.M. 1947, is amended to
23 read as follows:

24 "84-2003. Gross value of ~~products, how determined~~
25 metal mine yield -- computation. The total "gross value of

1 product", as used in this act, shall mean the market value
2 of all merchantable metals, or precious and semiprecious
3 gems and stones extracted or produced, each year from any
4 mine or mining property in the state of Montana or recovered
5 from the smelting, milling, reduction, or treatment in any
6 manner of ores extracted from any such mine or mining
7 property or from tailings resulting from the smelting,
8 reduction, or treatment of any such ores. ~~That whenever~~
9 Whenever the ores require smelting, reduction, or treatment
10 to ascertain the metal contents of such ores, the gross
11 value of the product thereof shall be determined by taking
12 the market value of all merchantable metals or mineral
13 products extracted or recovered thereby, as shown by the
14 gross smelter returns of such metals or mineral product in
15 dollars and cents, without any deductions for costs of
16 smelting, reduction, or treatment, or otherwise, based upon
17 the average quotations of the price of such metals, or
18 mineral products, in the city of New York, as evidenced by
19 some established authority or market report, ~~such as the~~
20 ~~Engineering and Mining Journal of New York City, or other~~
21 ~~standard publications~~, giving the market reports during the
22 calendar year immediately preceding. Should there be no
23 quotation covering any particular product, ~~then~~ the state
24 department of revenue shall fix the value of such gross
25 product, or such portion thereof, in such a manner as may

seen equitable."

Section 5. Section 84-2004, R.C.M. 1947, is amended to read as follows:

"84-2004. ~~Amount~~ Rate of tax. The annual license tax to be paid by such person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead, or any other metal or metals, or precious or semiprecious gems or stones are produced, shall be for the production years commencing on or after January 1, 1970 and for each production year thereafter, be an amount computed on the gross value of product which may have been derived by such person from such business, work, or operation within this state during the calendar year immediately preceding, at the following rates: ~~The rate of tax shall be fifteen hundredths of one per cent (0.15 of 1%) of the first one hundred thousand dollars (\$100,000) of the gross value of the product, five hundred seventy-five thousandths of one per cent (0.575 of 1%) of the amount by which such gross value of product exceeds one hundred thousand dollars (\$100,000) and does not exceed two hundred and fifty thousand dollars (\$250,000); eighty six hundredths of one per cent (0.86 of 1%) of the amount by which such gross value of product exceeds two hundred and fifty thousand dollars (\$250,000) and does not exceed four hundred thousand dollars~~

~~(\$400,000); one and fifteen hundredths per cent (1.15%) of the amount by which the gross value of product exceeds four hundred thousand dollars (\$400,000) and does not exceed five hundred thousand dollars (\$500,000) and one and four hundred thirty-eight thousandths per cent (1.438%) of the amount by which the gross value of product exceeds five hundred thousand dollars (\$500,000).~~

<u>Gross value</u>	<u>Rate of Tax</u>
<u>of product</u>	<u>(percentage of gross value)</u>
<u>first \$100,000</u>	<u>0.15%</u>
<u>more than \$100,000 and</u>	
<u>not more than \$250,000</u>	<u>0.575% of the increment</u>
<u>more than \$250,000 and</u>	
<u>not more than \$400,000</u>	<u>0.86% of the increment</u>
<u>more than \$400,000 and</u>	
<u>not more than \$500,000</u>	<u>1.15% of the increment</u>
<u>more than \$500,000</u>	<u>1.438% of the increment"</u>

Section 6. Section 84-2008.1, R.C.M. 1947, is amended to read as follows:

"84-2008.1. Procedure for collection of tax. All tax, penalty, and interest due from any person under this act shall be a lien upon any and all real property of such person upon the filing of when the state department of

~~revenue of the duplicate of the statement so made by the~~
~~state department of revenue, or a certified copy of any~~
~~statement filed by said department~~ files in the office of
 the county clerk in the county where such real property is
 situated a certified copy of its statement of estimated tax
computed under 84-2008, which This lien shall have
 precedence over any other claim, lien, or demand thereafter
 filed and recorded and ~~which~~ may be enforced in the name of
 the state of Montana in the same manner as judgment liens
 are enforced by law."

Section 7. Section 84-2010, R.C.M. 1947, is amended to
 read as follows:

"84-2010. Hearing on determination of value of gross
 product or amount of tax. Every person whose license tax has
 been determined and assessed by the state department of
 revenue under any of the provisions of this act, who ~~shall~~
~~feel~~ feels aggrieved by the determination and assessment of
 the department as to the amount of gross value of product,
 or as to the amount of the license tax, may, at any time
 within ~~ten~~ 10 days after the ~~date~~ receipt of the required
~~notice thereof, required to be given to such person of such~~
determination and assessment, file with the state tax appeal
 board a petition for a hearing in which petition must be
 stated ~~and set forth particularly and specifically~~ the
 grounds and reasons therefor, and the manner in which the

amount of the gross value of product or the amount of the
 license tax, or both, should be changed or corrected. Upon
 the filing of such petition, if it appears to the
 satisfaction of the state tax appeal board therefrom that
 the department ~~of revenue~~ has erred in any manner in
 ascertaining and determining the amount of the gross value
 of product, or the amount of the license tax, or both, the
 board shall immediately correct such error, or errors, and
 if such correction ~~shall be~~ is in conformity with the
 request contained in the petition for a hearing, the board
 shall take no further steps in connection with such
 petition, other than to notify the ~~state department of~~
~~revenue~~ of the correct amount of the license tax due from
 such person after the making of such correction, and
 notifying such person thereof. If, from such examination,
 it does not appear to the satisfaction of the state tax
 appeal board that the department ~~of revenue~~ has erred in any
 manner, the board shall grant the hearing, fix a day when
 the board will take up and hear such matter, and give notice
 to such person of such date of hearing as the board ~~may deem~~
considers reasonable. At the hearing of such ~~person~~
petition, any taxpayer interested, and the department ~~of~~
~~revenue~~ may introduce witnesses and present testimony on any
 material matters connected with such return and license tax,
 and after considering such evidence the board shall fix and

determine the gross value of product, and reassess the amount of the license tax to be paid by such person, and give notice thereof to such person and the state department of revenue."

Section 8. Section 84-2202, R.C.M. 1947, is amended to read as follows:

"84-2202. Oil or gas producers' severance tax — amount — exceptions. (1) Every person engaging in or carrying on the business of producing, ~~within this state,~~ petroleum, ~~or~~ other mineral or crude oil, or natural gas within this state or engaging in or carrying on the business of owning, controlling, managing, leasing, or operating within this state any well or wells from which any merchantable or marketable petroleum, ~~or~~ other mineral or crude oil, or natural gas is extracted or produced, sufficient in quantity to justify the marketing of the same, must, each year when engaged in or carrying on any such business in this state, pay to the state department of revenue, for the exclusive use and benefit of the state of Montana, a severance tax, computed at the following rates:

(a) ~~Two and one-tenth per cent (2.1%)~~ of the total gross value of that portion of all the petroleum and other mineral or crude oil produced by such person from each lease or unit in the calendar quarter not in excess of an amount obtained by multiplying the number of producing wells on

such lease or unit by ~~four hundred fifty (450)~~ barrels;

(b) ~~Two and sixty-five hundredths per cent (2.65%)~~ of the total gross value of that portion of all the production of such person from each lease or unit in each calendar quarter in excess of ~~four hundred fifty (450)~~ barrels multiplied by the number of producing wells on such lease or unit; but in determining the amount of such tax there shall be excluded from consideration all petroleum, or other crude or mineral oil produced and used by such person during such year in connection with his operations in prospecting for, developing, and producing such petroleum, ~~or~~ crude or mineral oil, ~~provided, however, that nothing~~ Nothing in this act ~~shall~~ may be construed as requiring laborers or employees, hired or employed by any person, to drill any oil well, or to work in or about any oil well, or prospect or explore for, or do any work for the purpose of developing any petroleum or other mineral or crude oil to pay such severance tax, nor ~~shall~~ may any work be done, or the drilling of any well or wells, for the purpose of prospecting or exploring for petroleum or other mineral or crude oils, or for the purpose of developing same, be ~~deemed~~ considered to be the engaging in or carrying on of any such business, ~~provided, further, that if~~ in the doing of any such work, ~~or~~ in the drilling of any oil well, or in such prospecting, exploring, or development work, any

merchandise or marketable petroleum or other mineral or crude oil in excess of the quantity required by such person for carrying on such operation ~~shall be~~ is produced sufficient in quantity to justify the marketing of the same, ~~then~~ such work, drilling, prospecting, exploring, or development work ~~shall be deemed~~ is considered to be the engaging in and carrying on of such business within this state within the meaning of this section.

(c) ~~Two and sixty-five hundredths percent (2.65%)~~ of the total gross value of natural gas produced from each lease or unit, but in determining the amount of such tax there shall be excluded from consideration all gas produced and used by such person during such year in connection with his operations in prospecting for, developing, and producing such gas, or petroleum, or crude or mineral oil; and there shall also be excluded from consideration all gas recycled or reinjected into the ground.

~~(d) (2)~~ Every person required to pay such tax hereunder shall pay the same in full for his own account and for the account of each of the other owner or owners of the gross proceeds in value or in kind of all the marketable petroleum or other mineral or crude oil or natural gas extracted and produced, including owner or owners of working interest, royalty interest, overriding royalty interest, carried working interest, net proceeds interest, production

payments, and all other interest or interests owned or carved out of the total gross proceeds in value or in kind of such extracted marketable petroleum or other mineral or crude oil or natural gas, except that any of the aforesaid interests that are owned by the federal, state, county, or municipal governments shall be exempt from taxation under this chapter. Unless otherwise provided in a contract or lease, the pro rata share of any royalty owner or owners will be deducted from any settlements under said lease or leases or division of proceeds orders or other contracts."

Section 9. Section 84-2206, R.C.M. 1947, is amended to read as follows:

"84-2206. Record of product — carriers to furnish data. Every such person shall keep a record in such form as the state department of revenue may require, of all petroleum and other mineral or crude oil or natural gas extracted or produced by such person in this state, and such records shall at all times during the business hours of the day be subject to inspection by the state department of revenue, or its members, agents, or employees. It shall be the duty of railroad companies, pipeline, and transportation companies carrying crude or mineral oil, or natural gas to furnish to the state department of revenue, whenever requested so to do, all data relative to the shipment of said such products, that may be required to properly enforce

the provisions of this act. The failure of any railroad company, pipeline, and or transportation companies company to comply with the provisions of this section shall make such companies company liable to a penalty of ~~one hundred~~ ~~(\$100.00)~~ dollars for each day it ~~shall fail~~ fails to furnish such statement."

Section 10. Section 84-2209.1, R.C.M. 1947, is amended to read as follows:

"84-2209.1. Procedure for collection of tax. All tax, penalty, and interest due from any person under this act shall be a lien upon any and all real property of such person ~~upon the filing of when~~ the state department of revenue ~~of the duplicate of the statement so made by the state department of revenue, or a certified copy of any statement filed by said department files~~ in the office of the county clerk in the county where such real property is situated a certified copy of its statement of estimated tax computed under 84-2209, which This lien shall have precedence over any other claim, lien, or demand thereafter filed and recorded and ~~which~~ may be enforced in the name of the state of Montana in the same manner as judgment liens are enforced by law."

Section 11. Section 84-7012, R.C.M. 1947, is amended to read as follows:

"84-7012. Procedure in case of failure to file

statement — penalty — interest — tax lien. (1) If any person ~~shall fail, refuse or neglect~~ fails, refuses, or neglects to make and file a statement and return it within the time prescribed, the department shall, immediately after such time has expired, ~~ascertain and determine~~, as nearly as may be possible from any returns or reports filed with the state or from any other information which the department may be able to obtain, the total gross value of product of such person from such business during the calendar year immediately preceding the year in which the tax is to be paid, and shall ~~determine and~~ fix the amount of the tax due to the state from such person for such calendar year and shall add to the amount of such tax a penalty of ~~ten percent~~ ~~(10%)~~ thereof plus interest at the rate of ~~one percent~~ ~~(1%)~~ per a month or fraction thereof computed on the total amount of tax and penalty. Interest shall be computed from the date the tax was due to the date of payment.

(2) The department shall mail to the person required to file an annual statement and pay any tax, a letter setting forth the amount of tax, penalty, and interest due. Upon receipt of this letter, the person shall remit to the department the full amount of license tax, penalty, and interest due within ~~fifteen~~ ~~(15)~~ days.

(3) The ~~ten percent~~ ~~(10%)~~ penalty ~~herein provided~~ may be waived by the state department of revenue if reasonable

1 cause for the failure and neglect to file the statement
2 required by ~~section~~ 84-7005 is provided to the department.

3 (4) The tax assessed against any person under this
4 act, together with penalties and interest thereon, shall be
5 a lien upon any and all property owned by such person within
6 this state, which lien shall attach on the date the state
7 department ~~of revenue files a duplicate of the statement so~~
8 ~~made by the department, or a certified copy of any statement~~
9 ~~filed by the department~~ in the office of the county clerk in
10 the county where such property is situated a certified copy
11 of its letter sent under subsection (2), which This lien
12 shall have precedence over any other claim, lien, or demand
13 thereafter filed and recorded and ~~which~~ may be enforced in
14 the name of the state of Montana in the same manner as
15 judgment liens are enforced by law."

16 Section 12. Repealer. Section 84-2011, R.C.M. 1947, is
17 repealed.

-End-

TAXATION COMMITTEE

Rep. Herb Huennekens, Chairman, called the meeting to order in room 434 of the Capitol Building, Helena, January 6, 1977, at 8:00 a.m. All members of the committee were present.

Robert Marks, Roger Tippy, Bob McGee, Dean Zinnecker, Steve Turkiewicz, Dennis Burr were among those present.

Robert Marks, sponsor of House Bill 20, explained this bill provides for changes brought about by recodification requirements. He asked Roger Tippy, attorney for the Legislative Council, to explain the grammatical corrections shown on the introduced copy of the bill. He explained

HOUSE BILL no substantive changes had been knowingly made in the bill.

20 Dennis Burr brought to the attention of the committee that the language on page 18, section 12, 84-5606.18 needs clarifying. Mr. Tippy was requested to write language correcting this language.

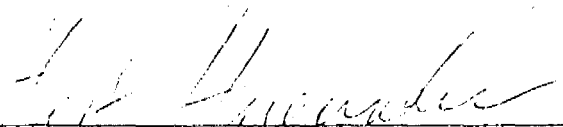
On page 3, lines 6-15 were deleted with veterans' approval since the trust fund was no longer beneficial; also, solvent funds are no longer liable for taxation.

Robert Marks, sponsor, advised House Bill 26 is also a recodification bill dealing with Title 84 taxation laws. To correct a typo on page 4, section 2, line 3 is amended following "revenue", strike "9fu". Roger Tippy

HOUSE BILL explained other changes in this bill to the committee.

26 There were no opponents.

Meeting adjourned at 9:20 a.m.



REPRESENTATIVE HERB HUENNEKENS, Chairman

For clarification, after consideration of House Bill 20, the following amendment was moved by Rep. Edward Lien: Amend page 18, section 12, lines 7 through 9; following "cigarette"; strike "or unless the same shall be has been taken from the original package having affixed thereto the insignia required by this act,"; insert "taken from a package which does not bear the required insignia". Motion to amend carried. Rep. Lien moved that HB 20 AS AMENDED DO PASS. Motion carried unanimously.

Rep. E. N. Dassinger moved the following amendment be adopted in House Bill 26: "Amend page 4, section 2, subsection (6), line 3; following: "revenue"; strike "9fu". Motion on amendment carried unanimously.

House Bill 26 Rep. Dassinger moved that House Bill 26 AS AMENDED DO PASS. Motion carried unanimously.

House Bill 13 Rep. E. N. Dassinger moved that House Bill 13 DO PASS. Motion carried unanimously.

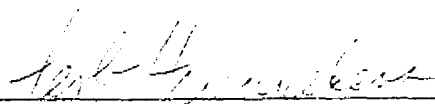
House Bill 18 Rep. E. N. Dassinger moved that House Bill 18 DO PASS. Motion carried unanimously.

House Bill 47 After consideration, Rep. Harrison Fagg moved that the proposed amendment offered by the sponsor be accepted. This motion was withdrawn.

Rep. W. Jay Fabrega moved that no action be taken on HB 47 until a fiscal note was received on HB 47. Motion carried with Reps. Harrington, Waldron, Dassinger, Huennekens voting No. HB 47 was held for further consideration.

Committee members were assigned to carry department of revenue proposed bills.

Meeting adjourned at 10:10 a.m.


 REP. HERB HUENNEKENS, Chairman.

3-3/15

CONSIDERATION OF HOUSE BILL 26: Mr. Tippy said this is another recodification bill and merely clarifies some of the language and grammar of legislation passed in the past session and makes the codes more readable. He went through the bill, pointing out each instance where a change or clarification had been made.

DISPOSITION: Sen. Turnage Moved HB26 Be Concurred In. The motion was seconded by Sen. Goodover; the motion passed unanimously. Note here the absence of Sens. Brown, Roskie.

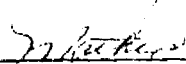
The committee then was asked to consider some of the remaining Senate bills and Sen. Watt asked the committee to first consider SB28, previously heard and discussed. They again discussed the bill and Sen. Watt proposed changing the credit amount to \$40, rather than the \$35 as is in the bill. The committee discussed the fiscal impact of this change and agreed that it would favor people in the lower income brackets over those in the higher brackets.

Sen. Watt Moved to Amend SB28 by striking the \$35 figure on pagel, line 20, and inserting \$40. His motion carried unanimously.

DISPOSITION: Sen. Watt then Moved SB28 AS Amended, Do Pass. A roll call vote was taken which resulted in a 5-4 vote, thus the motion carried. Copy is attached.

Sen. Watt then Moved SB434, heard and discussed previously by the committee, be Tabled. His motion carried unanimously.

Following disposition of these two Senate bills, the meeting was adjourned.


WILLIAM MATHERS

CHAIRMAN

HOUSE BILL NO. 26
INTRODUCED BY MARKS

A BILL FOR AN ACT ENTITLED: "AN ACT TO CORRECT GRAMMAR AND INTERNAL REFERENCES, AND DELETE REDUNDANT MATTER IN THE COAL SEVERANCE TAX, OIL AND GAS SEVERANCE TAX, METAL MINES LICENSE TAX, AND RESOURCE INDEMNITY TRUST TAX LAWS, IN AID OF RECODIFICATION; AMENDING SECTIONS 84-1313, 84-1319, 84-1320, 84-2003, 84-2004, 84-2008-1, 84-2010, 84-2202, 84-2206, 84-2209-1, AND 84-7012, R.C.M. 1947; REPEALING 84-2011, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 84-1313, R.C.M. 1947, is amended to read as follows:

"84-1313. Definitions. As used in this chapter ~~the following definitions apply:~~

(1) "Contract sales price" means either ~~(a)~~ the price of coal extracted and prepared for shipment f.o.b. mine, excluding that amount charged by the seller to pay taxes paid on production, or ~~(b)~~ a price imputed by the department under section 84-1318.

(2) "Energy conversion process" includes any process by which coal in the solid state is transformed into slurry, gas, electric energy, or any other form of energy.

(3) "Produced" means severed from the earth.

(4) "Strip mining" or "surface mining" is defined in section 50-1036.

(5) "Underground mining" means a coal mining method utilizing shafts and tunnels, ~~and not regulated under section 50-1039 and as further defined in 50-1036(20).~~

(6) "Ton" means two-thousand {2,000} pounds.

(7) "Department" means the department of revenue.

(8) "Taxes paid on production" ~~include~~ includes any tax paid to the federal, state, or local governments upon the quantity of coal produced as a function of either the volume or the value of production, and ~~do~~ does not include any tax upon the value of mining equipment, machinery, or buildings and lands, any tax upon a person's net income derived in whole or in part from the sale of coal, or any license fee."

Section 2. Section 84-1319, R.C.M. 1947, is amended to read as follows:

"84-1319. Disposal of ~~license--or~~ severance taxes. ~~license-or-severance~~ Severance taxes collected under the provisions of this chapter ~~or such sections as may enact a severance tax on coal in 1975~~ are allocated as follows:

(1) ~~To~~ to the county for such purposes as the governing body of that county may determine from which coal was mined for each calendar year prior to January 1, 1980,

1 ~~three--cents--{3¢} 3 cents~~ per a ton or ~~four--percent--{4%}~~ of
 2 the severance tax paid on the coal mined in that county,
 3 whichever is higher, and for each calendar year following
 4 December 31, 1979, ~~three--cents--{3¢} 3 cents~~ per a ton or
 5 ~~three--and--one-half--percent--{3 1/2%}~~ of the severance tax
 6 paid on the coal mined in that county, whichever is higher; i

7 (2) ~~Two--and--one-half--per--cent--{2 1/2%}~~ of total
 8 collections per a year until December 31, 1979, and
 9 thereafter ~~four--per--cent--{4%}~~ of total collections per a
 10 year to the earmarked revenue fund, to the credit of the
 11 alternative energy research development and demonstration
 12 account; i

13 (3) ~~Twenty-seven--and--one-half--per--cent--{27.5 27 1/2%}~~
 14 of total collections per a year, until July 1, 1979, and
 15 thereafter ~~thirty-five--per--cent--{35%}~~, to the earmarked
 16 revenue fund to the credit of the local impact and education
 17 trust fund account; i

18 (4) For ~~for~~ each of the ~~four--{4}~~ fiscal years
 19 following ~~the--effective--date--of--this--act--July 1, 1975;~~ ten
 20 ~~per--cent--{10%}~~ of total collections per a year to the
 21 earmarked revenue fund to the credit of the coal area
 22 highway improvement account; i

23 (5) ~~Ten--per--cent--{10%}~~ of total collections per a
 24 year to the earmarked revenue fund, for state equalization
 25 aid to public schools of the state; i

1 (6) For ~~for~~ the period ending December 31, 1979, one
 2 ~~per--cent--{1%}~~ of total collections per a year to the
 3 earmarked revenue fund, to the credit of the county land
 4 planning account; i

5 (7) ~~Two--and--one-half--percent--{2 1/2%}~~ of total
 6 collections per a year, to the sinking fund, to the credit
 7 of the renewable resource development bond account; i

8 (8) ~~Two--and--one-half--percent--{2 1/2%}~~ of total
 9 collections per a year through June 30, 1979, of which
 10 ~~portion--one-half--{1/2}--shall--be--allocated~~ to the earmarked
 11 revenue fund, for the purpose of acquisition of sites and
 12 areas described in section 62-304, subject to legislative
 13 appropriations, and ~~one-half--{1/2}--shall--be--allocated~~ to the
 14 trust and legacy fund, for the purpose of parks
 15 acquisition; i After ~~after~~ June 30, 1979, ~~five--percent--{5%}~~
 16 of total collections per a year ~~shall--be--allocated~~ to the
 17 trust and legacy fund, for the purpose of parks acquisition.
 18 Income from the fund established in this subsection may be
 19 appropriated for the acquisition of sites and areas
 20 described in section 62-304.

21 ~~{9}--To--the--earmarked--revenue--fund--such--portions--of~~
 22 ~~the--severance--tax--as--may--be--authorized--by--laws--enacted--in~~
 23 ~~1975.~~

24 ~~{10}{11}~~ All other revenues from ~~license--or~~
 25 severance taxes collected under the provisions of this

1 chapter ~~shall be deposited~~ to the credit of the general fund
2 of the state."

3 Section 3. Section 84-1320, R.C.M. 1947, is amended to
4 read as follows:

5 "84-1320. Reporting gross proceeds from coal. Each
6 person engaged in mining coal must, on or before March 31
7 each year, file with the department of revenue a statement
8 of the gross yield from each coal mine owned or worked by
9 such person in the preceding calendar year, and the value
10 thereof. The statement shall be in the form prescribed by
11 the department ~~of revenue~~, which may be coordinated with the
12 form used under ~~section--84-1316~~ 84-1315, and must be
13 verified by an officer of the firm. The statement shall
14 include:

15 (1) The ~~the~~ name and address of the owner or lessee or
16 operator of the mine;

17 (2) The ~~the~~ location of the mine;

18 (3) The ~~the~~ tons of ore ~~coal~~ extracted, treated, and
19 sold from the mine during the taxable period;

20 (4) The ~~the~~ gross yield or value in dollars and cents
21 derived from the contract sales price."

22 Section 4. Section 84-2003, R.C.M. 1947, is amended to
23 read as follows:

24 "84-2003. Gross value of ~~products,--how--determined~~
25 metal mine yield -- computation. The total "gross value of

1 product" as used in this act, shall mean the market value
2 of all merchantable metals ~~or~~ precious and semiprecious
3 gems and stones extracted or produced, each year from any
4 mine or mining property in the state of Montana or recovered
5 from the smelting, milling, reduction, or treatment in any
6 manner of ores extracted from any such mine or mining
7 property or from tailings resulting from the smelting,
8 reduction, or treatment of any such ores. ~~That--whenever~~
9 ~~Whenever~~ the ores require smelting, reduction, or treatment
10 to ascertain the metal contents of such ores, the gross
11 value of the product thereof shall be determined by taking
12 the market value of all merchantable metals or mineral
13 products extracted or recovered thereby, as shown by the
14 gross smelter returns of such metals or mineral product in
15 dollars and cents, without any deductions for costs of
16 smelting, reduction, or treatment, or otherwise, based upon
17 the average quotations of the price of such metals, or
18 mineral products, in the city of New York, as evidenced by
19 some established authority or market report, ~~such as the~~
20 ~~Engineering and Mining Journal of New York City, or other~~
21 ~~standard--publications,~~ giving the market reports during the
22 calendar year immediately preceding. Should there be no
23 quotation covering any particular product, then the state
24 department of revenue shall fix the value of such gross
25 product, or such portion thereof, in such a manner as may

1 seem equitable."

2 Section 5. Section 84-2004, R.C.M. 1947, is amended to
3 read as follows:

4 "84-2004. Amount Rate of tax. The annual license tax
5 to be paid by such person engaged in or carrying on the
6 business of working or operating any mine or mining property
7 in this state from which gold, silver, copper, lead, or any
8 other metal or metals, or precious or semiprecious gems or
9 stones are produced, shall be ~~for the production years~~
10 ~~commencing on or after January 1, 1978 and for each~~
11 ~~production year thereafter~~, be an amount computed on the
12 gross value of product which may have been derived by such
13 person from such business, work, or operation within this
14 state during the calendar year immediately preceding, at the
15 following rates: ~~The rate of tax shall be fifteen hundredths~~
16 ~~of one per cent (0.15 of 1%) of the first one hundred~~
17 ~~thousand dollars (\$100,000) of the gross value of the~~
18 ~~product, five hundred seventy-five thousandths of one per~~
19 ~~cent (0.575 of 1%) of the amount by which such gross value~~
20 ~~of product exceeds one hundred thousand dollars (\$100,000)~~
21 ~~and does not exceed two hundred and fifty thousand dollars~~
22 ~~(\$250,000); eighty-six hundredths of one per cent (0.86 of~~
23 ~~1%) of the amount by which such gross value of product~~
24 ~~exceeds two hundred and fifty thousand dollars (\$250,000)~~
25 ~~and does not exceed four hundred thousand dollars~~

1 ~~(\$400,000); one and fifteen hundredths per cent (1.15%) of~~
2 ~~the amount by which the gross value of product exceeds four~~
3 ~~hundred thousand dollars (\$400,000) and does not exceed five~~
4 ~~hundred thousand dollars (\$500,000) and one and four hundred~~
5 ~~thirty-eight thousandths per cent (1.438%) of the amount by~~
6 ~~which the gross value of product exceeds five hundred~~
7 ~~thousand dollars (\$500,000).~~

8	<u>Gross value</u>	<u>Rate of Tax</u>
9	<u>of product</u>	<u>(percentage of gross value)</u>
10	<u>first \$100,000</u>	<u>0.15%</u>
11	<u>more than \$100,000 and</u>	
12	<u>not more than \$250,000</u>	<u>0.575% of the increment</u>
13	<u>more than \$250,000 and</u>	
14	<u>not more than \$400,000</u>	<u>0.86% of the increment</u>
15	<u>more than \$400,000 and</u>	
16	<u>not more than \$500,000</u>	<u>1.15% of the increment</u>
17	<u>more than \$500,000</u>	<u>1.438% of the increment"</u>

18 Section 6. Section 84-2008.1, R.C.M. 1947, is amended
19 to read as follows:

20 "84-2008.1. Procedure for collection of tax. All tax,
21 penalty, and interest due from any person under this act
22 shall be a lien upon any and all real property of such
23 person upon the filing of when the state department of

1 ~~revenue of the duplicate of the statement so made by the~~
 2 ~~state department of revenue or a certified copy of any~~
 3 ~~statement filed by said department~~ files in the office of
 4 the county clerk in the county where such real property is
 5 situated a certified copy of its statement of estimated tax
 6 computed under 84-2008, which ~~this~~ lien shall have
 7 precedence over any other claim, lien, or demand thereafter
 8 filed and recorded and which may be enforced in the name of
 9 the state of Montana in the same manner as judgment liens
 10 are enforced by law."

11 Section 7. Section 84-2010, R.C.M. 1947, is amended to
 12 read as follows:

13 "84-2010. Hearing on determination of value of gross
 14 product or amount of tax. Every person whose license tax has
 15 been determined and assessed by the state department of
 16 revenue under any of the provisions of this act, who ~~shall~~
 17 ~~feels~~ aggrieved by the determination and assessment of
 18 the department as to the amount of gross value of product
 19 or as to the amount of the license tax, may, at any time
 20 within ten 10 days after the date receipt of the required
 21 notice thereof, required to be given to such person of such
 22 determination and assessment, file with the state tax appeal
 23 board a petition for a hearing in which petition must be
 24 stated ~~and set forth particularly and specifically~~ the
 25 grounds and reasons therefor, and the manner in which the

1 amount of the gross value of product or the amount of the
 2 license tax, or both, should be changed or corrected. Upon
 3 the filing of such petition, if it appears to the
 4 satisfaction of the state tax appeal board therefrom that
 5 the department of ~~revenue~~ has erred in any manner in
 6 ascertaining and determining the amount of the gross value
 7 of product, or the amount of the license tax, or both, the
 8 board shall immediately correct such error, or errors, ~~and~~
 9 if such correction ~~shall be~~ is in conformity with the
 10 request contained in the petition for a hearing, the board
 11 shall take no further steps in connection with such
 12 petition, other than to notify the state department of
 13 revenue of the correct amount of the license tax due from
 14 such person after the making of such correction, and
 15 notifying such person thereof. If, from such examination,
 16 it does not appear to the satisfaction of the state tax
 17 appeal board that the department of ~~revenue~~ has erred in any
 18 manner, the board shall grant the hearing, fix a day when
 19 the board will take up and hear such matter, and give notice
 20 to such person of such date of hearing as the board ~~may deem~~
 21 considers reasonable. At the hearing of such person
 22 petition, any taxpayer interested, and the department of
 23 revenue may introduce witnesses and present testimony on any
 24 material matters connected with such return and license tax,
 25 and after considering such evidence the board shall fix and

1 determine the gross value of product and reassess the
2 amount of the license tax to be paid by such person and
3 give notice thereof to such person and the state department
4 of revenue."

5 Section 8. Section 84-2202, R.C.M. 1947, is amended to
6 read as follows:

7 "84-2202. Oil or gas producers' severance tax --
8 amount -- exceptions. (1) Every person engaging in or
9 carrying on the business of producing ~~within this state~~
10 petroleum, or other mineral or crude oil, or natural gas
11 ~~within this state~~ or engaging in or carrying on the business
12 of owning, controlling, managing, leasing, or operating
13 within this state any well or wells from which any
14 merchantable or marketable petroleum or other mineral or
15 crude oil or natural gas is extracted or produced,
16 sufficient in quantity to justify the marketing of the same
17 must, each year when engaged in or carrying on any such
18 business in this state, pay to the state department of
19 revenue, for the exclusive use and benefit of the state of
20 Montana, a severance tax computed at the following rates:

21 (a) ~~Two-and-one-tenth-per-cent (2.1%)~~ of the total
22 gross value of that portion of all the petroleum and other
23 mineral or crude oil produced by such person from each lease
24 or unit in the calendar quarter not in excess of an amount
25 obtained by multiplying the number of producing wells on

1 such lease or unit by ~~four-hundred-fifty (450)~~ barrels;

2 (b) ~~Two-and-sixty-five-hundredths-per-cent (2.65%)~~ of
3 the total gross value of that portion of all the production
4 of such person from each lease or unit in each calendar
5 quarter in excess of ~~four-hundred-fifty (450)~~ barrels
6 multiplied by the number of producing wells on such lease or
7 unit; but in determining the amount of such tax there shall
8 be excluded from consideration all petroleum or other crude
9 or mineral oil produced and used by such person during such
10 year in connection with his operations in prospecting for,
11 developing, and producing such petroleum or crude or
12 mineral oil; ~~provided, however, that nothing~~ ~~Nothing~~ in
13 this act shall ~~may~~ be construed as requiring laborers or
14 employees, hired or employed by any person, to drill any oil
15 well or to work in or about any oil well or prospect or
16 explore for or do any work for the purpose of developing
17 any petroleum or other mineral or crude oil to pay such
18 severance tax, nor shall ~~may~~ any work be done or the
19 drilling of any well or wells for the purpose of
20 prospecting or exploring for petroleum or other mineral or
21 crude oil, or for the purpose of developing same, be deemed
22 considered to be the engaging in or carrying on of any such
23 business; ~~provided, further, that~~ If in the doing of any
24 such work, or in the drilling of any oil well, or in such
25 prospecting, exploring, or development work, any

1 merchantable or marketable petroleum or other mineral or
 2 crude oil in excess of the quantity required by such person
 3 for carrying on such operation ~~shall be~~ is produced
 4 sufficient in quantity to justify the marketing of the same,
 5 then such work, drilling, prospecting, exploring, or
 6 development work ~~shall be deemed~~ is considered to be the
 7 engaging in and carrying on of such business within this
 8 state within the meaning of this section.

9 (c) ~~Two and sixty-five hundredths percent (2.65%)~~ of
 10 the total gross value of natural gas produced from each
 11 lease or unit, but in determining the amount of such tax
 12 there shall be excluded from consideration all gas produced
 13 and used by such person during such year in connection with
 14 his operations in prospecting for, developing, and producing
 15 such gas or petroleum or crude or mineral oil; and there
 16 shall also be excluded from consideration all gas recycled
 17 or reinjected into the ground.

18 ~~(d)~~ (2) Every person required to pay such tax hereunder
 19 shall pay the same in full for his own account and for the
 20 account of each of the other owner or owners of the gross
 21 proceeds in value or in kind of all the marketable petroleum
 22 or other mineral or crude oil or natural gas extracted and
 23 produced, including owner or owners of working interest,
 24 royalty interest, overriding royalty interest, carried
 25 working interest, net proceeds interest, production

1 payments, and all other interest or interests owned or
 2 carved out of the total gross proceeds in value or in kind
 3 of such extracted marketable petroleum or other mineral or
 4 crude oil or natural gas, except that any of the aforesaid
 5 interests that are owned by the federal, state, county, or
 6 municipal governments shall be exempt from taxation under
 7 this chapter. Unless otherwise provided in a contract or
 8 lease, the pro rata share of any royalty owner or owners
 9 will be deducted from any settlements under said lease or
 10 leases or division of proceeds orders or other contracts."

11 Section 9. Section 84-2206, R.C.M. 1947, is amended to
 12 read as follows:

13 "84-2206. Record of product — carriers to furnish
 14 data. Every such person shall keep a record in such form as
 15 the state department of revenue may require, of all
 16 petroleum and other mineral or crude oil or natural gas
 17 extracted or produced by such person in this state, and such
 18 records shall at all times during the business hours of the
 19 day be subject to inspection by the state department of
 20 revenue, or its members, agents, or employees. It shall be
 21 the duty of railroad companies, pipelines, and transportation
 22 companies carrying crude or mineral oil, or natural gas to
 23 furnish to the state department of ~~revenue~~, whenever
 24 requested so to do, all data relative to the shipment of
 25 said such products, that may be required to properly enforce

1 the provisions of this act. The failure of any railroad
 2 company, pipeline, and ~~or~~ transportation companies company
 3 to comply with the provisions of this section shall make
 4 such ~~companies~~ company liable to a penalty of one--hundred
 5 ~~(\$100.00)--dollars~~ for each day it ~~shall--fail~~ fails to
 6 furnish such statement."

7 Section 10. Section 84-2209.1, R.C.M. 1947, is amended
 8 to read as follows:

9 "84-2209.1. Procedure for collection of tax. All tax,
 10 penalty, and interest due from any person under this act
 11 shall be a lien upon any and all real property of such
 12 person ~~upon the filing of when~~ the state department of
 13 ~~revenue of the duplicate of the statement so made by the~~
 14 ~~state department of revenue or a certified copy of any~~
 15 ~~statement filed by said department~~ files in the office of
 16 the county clerk in the county where such real property is
 17 situated a certified copy of its statement of estimated tax
 18 computed under 84-2209. which ~~this~~ lien shall have
 19 precedence over any other claim, lien, or demand thereafter
 20 filed and recorded and which may be enforced in the name of
 21 the state of Montana in the same manner as judgment liens
 22 are enforced by law."

23 Section 11. Section 84-7012, R.C.M. 1947, is amended
 24 to read as follows:

25 "84-7012. Procedure in case of failure to file

1 statement -- penalty -- interest -- tax lien. (1) If any
 2 person ~~shall fail, refuse or neglect~~ fails, refuses, or
 3 ~~neglects~~ to make and file a statement and return it within
 4 the time prescribed, the department shall, immediately after
 5 such time has expired, ~~ascertain and determine~~ as nearly as
 6 may be possible from any returns or reports filed with the
 7 state or from any other information which the department may
 8 be able to obtain, the total gross value of product of such
 9 person from such business during the calendar year
 10 immediately preceding the year in which the tax is to be
 11 paid, and shall ~~determine and fix~~ the amount of the tax due
 12 to the state from such person for such calendar year and
 13 shall add to the amount of such tax a penalty of ten-percent
 14 ~~{10%}~~ thereof plus interest at the rate of ~~one-percent--{1%}~~
 15 per a month or fraction thereof computed on the total amount
 16 of tax and penalty. Interest shall be computed from the
 17 date the tax was due to the date of payment.

18 (2) The department shall mail to the person required
 19 to file an annual statement and pay any tax, a letter
 20 setting forth the amount of tax, penalty, and interest due.
 21 Upon receipt of this letter, the person shall remit to the
 22 department the full amount of license tax, penalty, and
 23 interest due within ~~fifteen--{15}~~ days.

24 (3) The ~~ten-percent--{10%}~~ penalty herein-provided may
 25 be waived by the state department of revenue if reasonable

1 cause for the failure and neglect to file the statement
2 required by ~~section~~ 84-7005 is provided to the department.

3 (4) The tax assessed against any person under this
4 act, together with penalties and interest thereon, shall be
5 a lien upon any and all property owned by such person within
6 this state, which lien shall attach on the date the state
7 department ~~of revenue files a duplicate of the statement so~~
8 ~~made by the department or a certified copy of any statement~~
9 ~~filed by the department~~ in the office of the county clerk in
10 the county where such property is situated a certified copy
11 of its letter sent under subsection (2), which This lien
12 shall have precedence over any other claim, lien, or demand
13 thereafter filed and recorded and which may be enforced in
14 the name of the state of Montana in the same manner as
15 judgment liens are enforced by law."

16 Section 12. Repealer. Section 84-2011, R.C.M. 1947, is
17 repealed.

-End-